

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

**UNITED STATES OF AMERICA
PLAINTIFF,**

CASE #: 11-CR-20468

VS.

HON. ARTHUR J. TARNOW

**VINOD PATEL, D-36
DEFENDANT.**

AUSA Wayne F. Pratt
AUSA John K. Neal
U.S. Attorney's Office
211 W. Fort Street, Suite 2001
Detroit, MI 48226
(313) 226-2548

Richard M. Beuke
Timothy M. Black
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Chicago, IL 60514
(312) 427-3050

MOTION FOR PERMISSION TO WITHDRAW AS COUNSEL

Richard M. Beuke and Timothy M. Black, as attorneys for the Defendant Vinod Patel, ask this Court for permission to withdraw from their representation of Mr. Patel for the reasons set forth in the attached brief.

Respectfully Submitted,

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s/Timothy M. Black
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**BRIEF IN SUPPORT OF
MOTION FOR PERMISSION TO WITHDRAW AS COUNSEL**

Richard M. Beuke and Timothy M. Black, counsel of record for the Defendant Vinod Patel, ask this Court for permission to withdraw as counsel for Mr. Patel pursuant to Local Court Rule 57.1 and Michigan Rule of Professional Conduct 1.16. Based upon present circumstances of the relationship between counsel and Mr. Patel, it is believed there is a substantial breakdown in the attorney-client relationship and that withdrawal is in the best interests of justice.

The Defendant was indicted on this case on March 19, 2013, in the First Superseding Indictment (R737). As one of eighteen (18) defendants, he was charged in Count 1 with Health Care Fraud Conspiracy in violation of 18 U.S.C. §1349, and in Count 21 with Conspiracy to Pay and Receive Health Care Kickbacks in violation of 18 U.S.C. §371. On July 18, 2014, following a seven (7) day trial, the Defendant was found guilty by a jury on both charged counts (R1224).

Less than a week after the jury's verdict, on July 24, 2014, the Defendant sent a *pro se* Motion for New Trial to the Court for filing and to Mr. Beuke's office. A copy of the Motion, for

unknown reasons, never reached the Court and it was never filed. Nonetheless, the basis for that Motion for New Trial was an allegation that Mr. Beuke, and Mr. Black as co-counsel, were ineffective in representing the Defendant for failing to call his brother and alleged co-conspirator, Babubhai Patel, as a witness in his defense. Subsequently, on July 29, 2014, the Defendant filed a *pro se* Motion to Supplement Pending Motion for New Trial (R1226). That motion alleged additional ways in which Mr. Beuke, and Mr. Black as co-counsel, were ineffective in representing him; specifically, the Motion to Supplement Pending Motion for New Trial alleged a failure to challenge the legality of the Title III wiretaps in this case.

On August 4, 2014, the Defendant filed another motion *pro se*, entitled Defendant's Motion to Dismiss Pending Motion to Supplement Pending Motion for New Trial (R1232). In that Motion to Dismiss, the Defendant seeks dismissal of the Motion to Supplement Pending Motion for New Trial because he never filed the original Motion for New Trial, thus he argued that the Motion to Supplement it was moot.

Local Court Rule 57.1(b) allows for an attorney to request the Court's permission to withdraw from a case, and instructs the Court that it "may deny a motion to withdraw if the attorney's withdrawal would unduly delay trial of the case, or be unfairly prejudicial to any party, or otherwise not be in the interest of justice." LCrR 57.1. Allowing the Court discretion to deny the motion to withdraw in those specific circumstances implies that the court *should* grant permission to withdraw where those factors don't exist, and still *may* grant the motion where they do.

Rule 1.16 of the Michigan Rules of Professional Conduct (MRPC) addresses the circumstances in which termination of representation may be requested. MRPC 1.16(b) provides, in part:

(b) Except as stated in paragraph (c), a lawyer may withdraw from

representing a client if withdrawal can be accomplished without material adverse effect on the interests of the client, or if:

* * *

(3) a client insists upon pursuing an objective that the lawyer considers repugnant or imprudent; [or,]

* * *

(6) other good cause for withdrawal exists.

MRPC 1.16.

Pursuant to MRPC 1.16, termination of the attorney-client relationship between the Defendant and his attorneys, Mr. Beuke and Mr. Black, is appropriate in this case. Clearly, the Motion to Dismiss Pending Motion to Supplement Pending Motion for New Trial that the Defendant filed on August 4, 2014 does not withdraw the allegations of ineffective assistance of counsel that were advocated in that motion and the unfiled Motion for New Trial. A claim of ineffective assistance of counsel is unquestionably an objective that the Defendant's attorneys consider repugnant and imprudent. Arguably, it would be ineffective assistance of counsel to consider otherwise. Furthermore, it is apparent that the trust that must exist between a defendant and his attorneys is not present between the Defendant here and his counsel. Without that trust, there exists good cause for withdrawal.

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Because it is obvious that there has been a substantial breakdown in the attorney-client relationship and there is good cause for withdrawal, it is respectfully requested that this Court grant this motion in the best interests of justice.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on August 22, 2014, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to all parties of record. In addition, counsel has sent this Motion and Brief to Mr. Patel by first-class, U.S. Mail to Mr. Patel at FCI Milan.

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